

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Wireline Competition Bureau Seeks Further	)	
Comment on Issues Regarding Service	)	
Obligations for Connect America Phase II and	)	
Determining Who is an Unsubsidized	)	
Competitor	)	
	)	

**REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.**

Puerto Rico Telephone Company, Inc. (“PRT”) hereby responds to comments filed in response to the Wireline Competition Bureau’s (“Bureau”) Public Notice that seeks input on how it should identify which entities are unsubsidized competitors for purposes of determining which census blocks require Connect America Fund (“CAF”) Phase II support.<sup>1</sup> As a threshold matter, the Bureau should shape its CAF II program so that it does not arbitrarily prevent census blocks that do not receive real “broadband” connectivity from receiving CAF II support. To this end, PRT supports the following performance requirements, which other commenters also endorsed: (1) the use of 6 Mbps/1.5 Mbps (“6/1.5 Mbps service”) as a proxy for the required 4 Mbps/1 Mbps (“4/1 Mbps service”) speed threshold; (2) the use of a specific numerical latency standard; (3) the use of uniform minimum usage requirements that allow for normal video use; and (4) the institution of a full and fair challenge process to entities that claim to be unsubsidized competitors.<sup>2</sup> Through these criteria, the Bureau can ensure that all areas currently below the

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<sup>1</sup> See “Wireline Competition Bureau Seeks Further Comment on Issues Regarding Service Obligations for Connect America Phase II and Determining Who is an Unsubsidized Competitor,” Public Notice, WC Docket No. 10-90, DA 13-284 (Wireline Bur. Feb. 26, 2013) (“Public Notice”).

<sup>2</sup> Unless otherwise indicated, all comments referenced herein were filed in WC Docket 10-90 on March 28, 2013.

Commission-determined standards would be eligible for support. Because the budget for CAF Phase II funding is set at \$1.8 billion, the enforcement of these requirements will not increase fund size, but would instead target the funding to all areas not currently meeting the standards.

**I. THE EXISTING 6 /1.5 SERVICE DATA FROM THE NATIONAL BROADBAND MAP SERVES AS THE BEST PROXY FOR THE PRESENCE OF 4/1 MBPS SERVICE IN A GEOGRAPHIC AREA.**

PRT agrees with commenters that the Commission should continue to define unserved areas for purposes of allocating CAF Phase II support as areas that lack access to broadband service speeds below 4/1 Mbps.<sup>3</sup> But, the Commission should not use the presence in an area of 3 Mbps downstream and 768 kbps upstream service (“3 Mbps/768 kbps service”) as evidence that the area has 4/1 Mbps service and thus should be excluded from receiving CAF II support. As PRT previously stated, the fact that a census block is listed on the National Broadband Map (“NBM”) as having access to broadband service at speeds of at least 3 Mbps/768 kbps in no way indicates that it has access to 4/1 Mbps broadband service.<sup>4</sup> By using 3 Mbps/768 kbps service as a proxy for the 4/1 Mbps standard, the Bureau would “invariably exclude from funding eligibility many locations that are served by price cap carriers with less than 4/1 Mbps service.”<sup>5</sup> Indeed, in many areas with only 3 Mbps/768 kbps service, significant and costly network

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<sup>3</sup> See ADTRAN Comments at 9 (stating that “for the foreseeable future, the Commission should continue to use [4/1 Mbps] as the CAF Phase II standard”); Alaska Communications Systems Comments at 3 (noting that “[t]he Commission clearly set 4/1 Mbps as the initial performance requirement for all areas supported by CAF Phase II”) (“ACS Comments”).

<sup>4</sup> See Comments of PRT, WC Docket No. 10-90, 8-9 (Mar. 11, 2013) (“PRT March 11 Comments”).

<sup>5</sup> *Id.* USTelecom has estimated that in excess of one million housing units classified as served by broadband at 3 Mbps/768 kbps speeds are not served at 4/1 Mbps speeds. See Comments of USTelecom, WC Docket No. 10-90, 2 (Jan. 9, 2013).

upgrades would be necessary to offer individuals and businesses broadband service meeting the 4/1 Mbps standard.<sup>6</sup>

Because the availability of 3 Mbps/768 kbps service does not answer the question of whether 4/1 Mbps service is available, PRT—like many other commenters—urges the Commission to use the NBP’s next speed tier—6/1.5 Mbps—as the proxy for the availability of 4/1 Mbps service.<sup>7</sup> As the record evidence shows, setting the proxy at 6/1.5 Mbps would “further the Commission’s goals for expanding broadband availability at higher broadband speeds to as many consumers as possible.”<sup>8</sup> Moreover, setting the proxy at 6/1.5 Mbps will give the Bureau “greater assurance that [relevant census block areas] actually are served by an unsubsidized provider ....”<sup>9</sup>

## **II. THE BUREAU SHOULD LIMIT THE DEFINITION OF UNSUBSIDIZED COMPETITOR TO ONLY INCLUDE THOSE ENTITIES THAT OFFER SERVICES THAT REACH A SPECIFIC NUMERICAL LATENCY STANDARD.**

PRT agrees with other commenters that latency plays a key role in how much a subscriber uses and enjoys his or her broadband service.<sup>10</sup> This is especially so for subscribers

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<sup>6</sup> See PRT March 11 Comments at 9; ACS Comments at 2 (arguing that “setting the proxy lower than 4/1 Mbps speed . . . would disserve the Commission’s goal by excluding from funding eligibility some high-cost areas that lack access to a minimum level of broadband”).

<sup>7</sup> See California Public Utilities Commission and the People of the State of California Comments at 2-5 (noting that the CPAC resolved a similar problem—a speed threshold that did not align with the National Telecommunications and Information Administration (“NTIA”) and NBM speed measurements—by raising the definition of “served” to 6/1.5 Mbps service) (“CPUC Comments”); ViaSat, Inc. Comments at 4 (saying that CAF should “ensure that consumers in ‘unserved’ areas have access to broadband speeds of *at least* 4/1 Mbps”) (emphasis in original) (“ViaSat Comments”); Independent Telephone & Telecommunications Alliance Comments at 3-4 (emphasizing that using 3 Mbps/768 kbps service as a proxy suffers from “significant shortcomings”) (“ITTA Comments”).

<sup>8</sup> ACS Comments at 2-3 (noting that using 6/1.5 Mbps as the eligibility threshold should not correspondingly ratchet up the compliance requirements for carriers receiving Phase II support because the Commission clearly set 4/1 Mbps as the initial performance requirement for all areas supported by CAF Phase II).

<sup>9</sup> USTelecom Comments at 2.

<sup>10</sup> See ADTRAN Comments at 10; ITTA Comments at 3 (agreeing that latency standards must be set to allow for real time applications like VoIP).

that run interactive applications that require instantaneously-perceived response times. Indeed, PRT agrees with the Bureau's observation that latency is a vital consideration for both basic applications like VoIP, web conferencing, and video streaming, as well as advanced cloud applications like group video calling, connected education/medicine, and HD video conferencing.<sup>11</sup> Further, even applications like web browsing, which do not necessarily require real time responses, can be greatly affected by web page download times slowed by latency. To ensure that subscribers receive broadband connections that permit a full Internet experience, PRT agrees with other commenters that the Bureau should adopt a specific numerical latency standard for purposes of determining which geographic areas need support.<sup>12</sup>

**III. THE BUREAU SHOULD LIMIT THE DEFINITION OF UNSUBSIDIZED COMPETITOR TO ONLY INCLUDE THOSE ENTITIES THAT OFFER SERVICES WITH NO LESS THAN A 100 GB DATA ALLOWANCE.**

PRT agrees with commenters that the Bureau should adopt a minimum usage allowance that permits subscribers to enjoy the civic, educational, healthcare, employment, and e-commerce-related benefits of broadband connectivity.<sup>13</sup> PRT believes that to fully reap these benefits, subscribers must have access to enough gigabytes of data to allow for normal video usage. Specifically, based on PRT's own experience and the comments of others, PRT supports setting a minimum usage cap at 100 GB. As commenters explain, 100 GB would account for the

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<sup>11</sup> See Public Notice at n. 42 (citing to Cisco's Cloud Readiness Tool).

<sup>12</sup> See ITTA Comments at 8-9 (supporting the establishment of "a specific latency number"); ADTRAN Comments at 10-15 (explaining in detail how latency can affect the user experience and how other standards-setting bodies have treated latency); USTelecom Comments at 10 (asserting that the Bureau should specify a discrete number for the latency standard "[t]o avoid any confusion"); WISPA Comments at 6 (supporting "the Bureau's efforts to establish a useful, measurable latency standard").

<sup>13</sup> ADTRAN Comments at 14-15.

growth in video usage for education and communication purposes over the next five years. It would also allow for other new and unanticipated uses applications.<sup>14</sup>

**IV. THE BUREAU SHOULD ADOPT A FULL AND FAIR SYSTEM FOR CHALLENGING ASSERTIONS THAT ANOTHER ENTITY IS AN “UNSUBSIDIZED COMPETITOR.”**

PRT agrees with commenters that it is critical that census blocks remain eligible for CAF II support unless they are verifiably served at levels meeting the required performance metrics and the service provider truly is “unsubsidized.”<sup>15</sup> PRT therefore strongly agrees with ACS that while the goal of the Bureau’s challenge process “should be ensuring that support is needed, in cases of doubt, support should be provided so unserved locations may be served.”<sup>16</sup> To this end, PRT agrees with commenters that the onus should fall on unsubsidized competitors to demonstrate that they satisfy all of the performance criteria in a specific census block.

Accordingly, PRT supports the Bureau’s proposal to require that fixed wireless providers *affirmatively show* that they meet whatever speed, latency, capacity, and price criteria that the Bureau adopts in this proceeding.<sup>17</sup> PRT also agrees with commenters, however, that cable broadband providers should not be presumed to meet latency, speed, capacity, and pricing requirements. Rather, cable providers should be required to make the same affirmative showing made by fixed wireless providers.<sup>18</sup> Because a finding that an “unsubsidized competitor” exists

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<sup>14</sup> See ADTRAN Comments at 15 (endorsing the 100 GB “[i]n light of the expected continued growth in usage”).

<sup>15</sup> See ACS Comments at 8.

<sup>16</sup> ACS Comments at 8.

<sup>17</sup> See ACS Comments at 10 (arguing that fixed wireless Internet providers should be required to show they meet these requirements for both voice and broadband services); ITTA Comments at 5 (“heartily endors[ing]” the requirement that fixed wireless providers make an affirmative showing that they meet these requirements”); USTelecom Comments at 7 (“The Bureau is correct in not granting [fixed wireless providers] the rebuttable presumption.”).

<sup>18</sup> See ACS Comments at 9 (stating that the proposed presumption is “wholly inappropriate for Alaska”); NTCA – The Rural Broadband Association, the National Exchange Carrier Association, Inc., the Eastern Rural

in a census block will have major implications for the incumbent broadband provider and the residents in the service area, PRT agrees with NTCA that there is “no good reason, as part of a well-considered evidentiary process, to compel a universal service recipient to rebut the claims of any would-be competitor, given that the would-be competitor . . . is in the best position to know its rates, terms, conditions, and service characteristics.”<sup>19</sup>

In addition to putting the initial burden on alleged unsubsidized competitors, the Bureau should create a full and fair system to challenge claims from competitors that they provide unsubsidized broadband service. Specifically, parties challenging either the validity of an affirmative showing by a fixed wireless provider—or the presumption granted to cable broadband providers in the event the Bureau retains this presumption—should be able to do so with a *prima facie* showing that the alleged “unsubsidized competitor” does not meet one or more of these latency, speed, capacity, or price requirements. If this *prima facie* showing is made, the burden should shift to the alleged “unsubsidized competitor” to show, using hard data, that its services meet the Bureau’s requirements.<sup>20</sup>

## **V. CONCLUSION**

The Bureau should define “unsubsidized competitors” for purposes of CAF II funding consistent with the performance characteristics discussed above.

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Telecom Association, and the Western Telecommunications Alliance Comments at 6 (observing that “given the ‘wide variance’ in the showing of the presence of unsubscribed competitors via the [NBM] and the actual presence of such competitive providers, the Commission should adopt a much more rigorous process” for determining that cable broadband providers meet these criteria) (“NTCA Comments”).

<sup>19</sup> NTCA Comments at 5-6. However, if the Bureau favors a presumption that cable broadband providers meet the latency, speed, capacity, and pricing requirements, the presumption should be easily rebuttable.

<sup>20</sup> This data could be produced under seal to protect competitively sensitive information.

Respectfully submitted,

/s/ Thomas J. Navin

Francisco J. Silva  
Walter Arroyo  
**Puerto Rico Telephone Company, Inc.**  
P.O. Box 360998  
San Juan, Puerto Rico 00936-0998

Thomas J. Navin  
Steven E. Merlis  
**Wiley Rein LLP**  
1776 K Street, N.W.  
Washington, DC 20006  
TEL.: 202.719-7000  
FAX: 202.719.7049

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*Counsel to Puerto Rico Telephone  
Company, Inc.*